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AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2119**

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**Introduced by Assembly Member Chu**

February 17, 2016

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An act to amend Section 56.10 of the Civil Code, and to amend Sections 4514 and 5328.8 of the Welfare and Institutions Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 2119, as amended, Chu. Medical information: disclosure: medical examiners and forensic pathologists.

(1) Existing law, the Confidentiality of Medical Information Act, generally prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization. The act, as exceptions to this prohibition, requires disclosure of medical information by a provider of health care, a health care service plan, or a contractor to a coroner when requested by the coroner in the course of investigation for specified purposes, and authorizes disclosure when requested by the coroner in the course of investigation for any other purpose. Under existing law, medical information obtained in the course of providing

certain services to specified persons is confidential and not subject to disclosure under these exceptions.

This bill would subject medical information obtained in the course of providing those services to disclosure under the above-described exceptions, would expand those exceptions to include medical information requested by a medical examiner or forensic pathologist, as specified, and would provide that a medical examiner, forensic pathologist, or coroner, as described, is prohibited from disclosing the information contained in the medical record obtained pursuant to those exceptions to a 3rd party without a court order or authorization of the beneficiary or personal representative of the deceased patient.

(2) Existing law requires, when a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee to release information and records to the coroner. Existing law prohibits that department and those persons from releasing any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident's physical condition. Existing law also requires any information released to the coroner pursuant to this provision to remain confidential and to be sealed, and prohibits that information from being made part of the public record. Similar requirements and prohibitions apply to the State Department of State Hospitals, physicians, and professionals with respect to records regarding patients who die while hospitalized in a state mental hospital.

This bill would revise those provisions by deleting the prohibitions against releasing notes, summaries, transcripts, tapes, or records of conversations between the resident or patient and the health professional personnel of the hospital relating to the personal life of the resident or patient that is not related to the diagnosis and treatment of the resident's or patient's physical condition. The bill would instead expand those disclosure requirements to include the release of information and records to ~~the~~ a medical examiner, forensic pathologist, or coroner, as specified, upon request. The bill would prohibit the disclosure, except as specified, of any information contained in the medical record obtained pursuant to those exceptions to a 3rd party without a court order or authorization of the beneficiary or personal representative of the deceased patient.

The bill would also require a health facility, as defined, a health or behavioral health facility or clinic, and the physician in charge of the patient to release the patient's medical record to ~~the a~~ medical examiner, forensic pathologist, or coroner, as specified, and upon request, when a patient dies from any cause, natural or otherwise. The bill would prohibit a medical examiner, forensic pathologist, or coroner from disclosing, except as specified, any information contained in the medical record obtained pursuant to these provisions without a court order or authorization of the beneficiary or personal representative of the deceased patient. ~~By imposing a higher level of service on the counties, the bill would impose a state-mandated local program.~~

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 56.10 of the Civil Code is amended to
- 2 read:
- 3 56.10. (a) A provider of health care, health care service plan,
- 4 or contractor shall not disclose medical information regarding a
- 5 patient of the provider of health care or an enrollee or subscriber
- 6 of a health care service plan without first obtaining an
- 7 authorization, except as provided in subdivision (b) or (c).
- 8 (b) A provider of health care, a health care service plan, or a
- 9 contractor shall disclose medical information if the disclosure is
- 10 compelled by any of the following:
- 11 (1) By a court pursuant to an order of that court.

1 (2) By a board, commission, or administrative agency for  
2 purposes of adjudication pursuant to its lawful authority.

3 (3) By a party to a proceeding before a court or administrative  
4 agency pursuant to a subpoena, subpoena duces tecum, notice to  
5 appear served pursuant to Section 1987 of the Code of Civil  
6 Procedure, or any provision authorizing discovery in a proceeding  
7 before a court or administrative agency.

8 (4) By a board, commission, or administrative agency pursuant  
9 to an investigative subpoena issued under Article 2 (commencing  
10 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title  
11 2 of the Government Code.

12 (5) By an arbitrator or arbitration panel, when arbitration is  
13 lawfully requested by either party, pursuant to a subpoena duces  
14 tecum issued under Section 1282.6 of the Code of Civil Procedure,  
15 or another provision authorizing discovery in a proceeding before  
16 an arbitrator or arbitration panel.

17 (6) By a search warrant lawfully issued to a governmental law  
18 enforcement agency.

19 (7) By the patient or the patient's representative pursuant to  
20 Chapter 1 (commencing with Section 123100) of Part 1 of Division  
21 106 of the Health and Safety Code.

22 (8) By a medical examiner, forensic pathologist, or coroner,  
23 when requested in the course of an investigation by ~~the~~ a medical  
24 examiner, forensic pathologist, or coroner's office for the purpose  
25 of identifying the decedent or locating next of kin, or when  
26 investigating deaths that may involve public health concerns, organ  
27 or tissue donation, child abuse, elder abuse, suicides, poisonings,  
28 accidents, sudden infant deaths, suspicious deaths, unknown deaths,  
29 or criminal deaths, or upon notification of, or investigation of,  
30 imminent deaths that may involve organ or tissue donation pursuant  
31 to Section 7151.15 of the Health and Safety Code, or when  
32 otherwise authorized by the decedent's representative. Medical  
33 information requested by ~~the~~ a medical examiner, forensic  
34 pathologist, or coroner under this paragraph shall be limited to  
35 information regarding the patient who is the decedent and who is  
36 the subject of the investigation or who is the prospective donor  
37 and shall be disclosed to ~~the~~ a medical examiner, forensic  
38 pathologist, or coroner without delay upon request. A medical  
39 examiner, forensic pathologist, or coroner shall not disclose the  
40 information contained in the medical record obtained pursuant to

1 this paragraph to a third party without a court order or authorization  
2 pursuant to paragraph (4) of subdivision (c) of Section 56.11.

3 (9) When otherwise specifically required by law.

4 (c) A provider of health care or a health care service plan may  
5 disclose medical information as follows:

6 (1) The information may be disclosed to providers of health  
7 care, health care service plans, contractors, or other health care  
8 professionals or facilities for purposes of diagnosis or treatment  
9 of the patient. This includes, in an emergency situation, the  
10 communication of patient information by radio transmission or  
11 other means between emergency medical personnel at the scene  
12 of an emergency, or in an emergency medical transport vehicle,  
13 and emergency medical personnel at a health facility licensed  
14 pursuant to Chapter 2 (commencing with Section 1250) of Division  
15 2 of the Health and Safety Code.

16 (2) The information may be disclosed to an insurer, employer,  
17 health care service plan, hospital service plan, employee benefit  
18 plan, governmental authority, contractor, or other person or entity  
19 responsible for paying for health care services rendered to the  
20 patient, to the extent necessary to allow responsibility for payment  
21 to be determined and payment to be made. If (A) the patient is, by  
22 reason of a comatose or other disabling medical condition, unable  
23 to consent to the disclosure of medical information and (B) no  
24 other arrangements have been made to pay for the health care  
25 services being rendered to the patient, the information may be  
26 disclosed to a governmental authority to the extent necessary to  
27 determine the patient's eligibility for, and to obtain, payment under  
28 a governmental program for health care services provided to the  
29 patient. The information may also be disclosed to another provider  
30 of health care or health care service plan as necessary to assist the  
31 other provider or health care service plan in obtaining payment  
32 for health care services rendered by that provider of health care or  
33 health care service plan to the patient.

34 (3) The information may be disclosed to a person or entity that  
35 provides billing, claims management, medical data processing, or  
36 other administrative services for providers of health care or health  
37 care service plans or for any of the persons or entities specified in  
38 paragraph (2). However, information so disclosed shall not be  
39 further disclosed by the recipient in a way that would violate this  
40 part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of a provider of health care or a health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or a health care service plan. However, no patient-identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in a way that would violate this part.

(6) The information may be disclosed to a medical examiner, forensic pathologist, or county coroner in the course of an investigation by the a medical examiner, forensic pathologist, or coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b). A medical examiner, forensic pathologist, or coroner shall not disclose the information contained in the medical record obtained pursuant to this paragraph to a third party without a court order or authorization pursuant to paragraph (4) of subdivision (c) of Section 56.11.

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in a way that would disclose the identity of a patient or violate this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related

1 health care services to an employee conducted at the specific prior  
2 written request and expense of the employer may disclose to the  
3 employee's employer that part of the information that:

4 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim  
5 or challenge to which the employer and the employee are parties  
6 and in which the patient has placed in issue his or her medical  
7 history, mental or physical condition, or treatment, provided that  
8 information may only be used or disclosed in connection with that  
9 proceeding.

10 (B) Describes functional limitations of the patient that may  
11 entitle the patient to leave from work for medical reasons or limit  
12 the patient's fitness to perform his or her present employment,  
13 provided that no statement of medical cause is included in the  
14 information disclosed.

15 (9) Unless the provider of health care or a health care service  
16 plan is notified in writing of an agreement by the sponsor, insurer,  
17 or administrator to the contrary, the information may be disclosed  
18 to a sponsor, insurer, or administrator of a group or individual  
19 insured or uninsured plan or policy that the patient seeks coverage  
20 by or benefits from, if the information was created by the provider  
21 of health care or health care service plan as the result of services  
22 conducted at the specific prior written request and expense of the  
23 sponsor, insurer, or administrator for the purpose of evaluating the  
24 application for coverage or benefits.

25 (10) The information may be disclosed to a health care service  
26 plan by providers of health care that contract with the health care  
27 service plan and may be transferred among providers of health  
28 care that contract with the health care service plan, for the purpose  
29 of administering the health care service plan. Medical information  
30 shall not otherwise be disclosed by a health care service plan except  
31 in accordance with this part.

32 (11) This part does not prevent the disclosure by a provider of  
33 health care or a health care service plan to an insurance institution,  
34 agent, or support organization, subject to Article 6.6 (commencing  
35 with Section 791) of Chapter 1 of Part 2 of Division 1 of the  
36 Insurance Code, of medical information if the insurance institution,  
37 agent, or support organization has complied with all of the  
38 requirements for obtaining the information pursuant to Article 6.6  
39 (commencing with Section 791) of Chapter 1 of Part 2 of Division  
40 1 of the Insurance Code.

1 (12) The information relevant to the patient's condition, care,  
2 and treatment provided may be disclosed to a probate court  
3 investigator in the course of an investigation required or authorized  
4 in a conservatorship proceeding under the  
5 Guardianship-Conservatorship Law as defined in Section 1400 of  
6 the Probate Code, or to a probate court investigator, probation  
7 officer, or domestic relations investigator engaged in determining  
8 the need for an initial guardianship or continuation of an existing  
9 guardianship.

10 (13) The information may be disclosed to an organ procurement  
11 organization or a tissue bank processing the tissue of a decedent  
12 for transplantation into the body of another person, but only with  
13 respect to the donating decedent, for the purpose of aiding the  
14 transplant. For the purpose of this paragraph, "tissue bank" and  
15 "tissue" have the same meanings as defined in Section 1635 of the  
16 Health and Safety Code.

17 (14) The information may be disclosed when the disclosure is  
18 otherwise specifically authorized by law, including, but not limited  
19 to, the voluntary reporting, either directly or indirectly, to the  
20 federal Food and Drug Administration of adverse events related  
21 to drug products or medical device problems, or to disclosures  
22 made pursuant to subdivisions (b) and (c) of Section 11167 of the  
23 Penal Code by a person making a report pursuant to Sections  
24 11165.9 and 11166 of the Penal Code, provided that those  
25 disclosures concern a report made by that person.

26 (15) Basic information, including the patient's name, city of  
27 residence, age, sex, and general condition, may be disclosed to a  
28 state-recognized or federally recognized disaster relief organization  
29 for the purpose of responding to disaster welfare inquiries.

30 (16) The information may be disclosed to a third party for  
31 purposes of encoding, encrypting, or otherwise anonymizing data.  
32 However, no information so disclosed shall be further disclosed  
33 by the recipient in a way that would violate this part, including the  
34 unauthorized manipulation of coded or encrypted medical  
35 information that reveals individually identifiable medical  
36 information.

37 (17) For purposes of disease management programs and services  
38 as defined in Section 1399.901 of the Health and Safety Code,  
39 information may be disclosed as follows: (A) to an entity  
40 contracting with a health care service plan or the health care service



1 plan's contractors to monitor or administer care of enrollees for a  
2 covered benefit, if the disease management services and care are  
3 authorized by a treating physician, or (B) to a disease management  
4 organization, as defined in Section 1399.900 of the Health and  
5 Safety Code, that complies fully with the physician authorization  
6 requirements of Section 1399.902 of the Health and Safety Code,  
7 if the health care service plan or its contractor provides or has  
8 provided a description of the disease management services to a  
9 treating physician or to the health care service plan's or contractor's  
10 network of physicians. This paragraph does not require physician  
11 authorization for the care or treatment of the adherents of a  
12 well-recognized church or religious denomination who depend  
13 solely upon prayer or spiritual means for healing in the practice  
14 of the religion of that church or denomination.

15 (18) The information may be disclosed, as permitted by state  
16 and federal law or regulation, to a local health department for the  
17 purpose of preventing or controlling disease, injury, or disability,  
18 including, but not limited to, the reporting of disease, injury, vital  
19 events, including, but not limited to, birth or death, and the conduct  
20 of public health surveillance, public health investigations, and  
21 public health interventions, as authorized or required by state or  
22 federal law or regulation.

23 (19) The information may be disclosed, consistent with  
24 applicable law and standards of ethical conduct, by a  
25 psychotherapist, as defined in Section 1010 of the Evidence Code,  
26 if the psychotherapist, in good faith, believes the disclosure is  
27 necessary to prevent or lessen a serious and imminent threat to the  
28 health or safety of a reasonably foreseeable victim or victims, and  
29 the disclosure is made to a person or persons reasonably able to  
30 prevent or lessen the threat, including the target of the threat.

31 (20) The information may be disclosed as described in Section  
32 56.103.

33 (21) (A) The information may be disclosed to an employee  
34 welfare benefit plan, as defined under Section 3(1) of the Employee  
35 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)),  
36 which is formed under Section 302(c)(5) of the Taft-Hartley Act  
37 (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare  
38 benefit plan provides medical care, and may also be disclosed to  
39 an entity contracting with the employee welfare benefit plan for  
40 billing, claims management, medical data processing, or other

1 administrative services related to the provision of medical care to  
2 persons enrolled in the employee welfare benefit plan for health  
3 care coverage, if all of the following conditions are met:

4 (i) The disclosure is for the purpose of determining eligibility,  
5 coordinating benefits, or allowing the employee welfare benefit  
6 plan or the contracting entity to advocate on the behalf of a patient  
7 or enrollee with a provider, a health care service plan, or a state  
8 or federal regulatory agency.

9 (ii) The request for the information is accompanied by a written  
10 authorization for the release of the information submitted in a  
11 manner consistent with subdivision (a) and Section 56.11.

12 (iii) The disclosure is authorized by and made in a manner  
13 consistent with the Health Insurance Portability and Accountability  
14 Act of 1996 (Public Law 104-191).

15 (iv) Any information disclosed is not further used or disclosed  
16 by the recipient in any way that would directly or indirectly violate  
17 this part or the restrictions imposed by Part 164 of Title 45 of the  
18 Code of Federal Regulations, including the manipulation of the  
19 information in any way that might reveal individually identifiable  
20 medical information.

21 (B) For purposes of this paragraph, Section 1374.8 of the Health  
22 and Safety Code shall not apply.

23 (22) Information may be disclosed pursuant to subdivision (a)  
24 of Section 15633.5 of the Welfare and Institutions Code by a person  
25 required to make a report pursuant to Section 15630 of the Welfare  
26 and Institutions Code, provided that the disclosure under  
27 subdivision (a) of Section 15633.5 concerns a report made by that  
28 person. Covered entities, as they are defined in Section 160.103  
29 of Title 45 of the Code of Federal Regulations, shall comply with  
30 the requirements of the Health Insurance Portability and  
31 Accountability Act (HIPAA) privacy rule pursuant to subsection  
32 (c) of Section 164.512 of Title 45 of the Code of Federal  
33 Regulations if the disclosure is not for the purpose of public health  
34 surveillance, investigation, intervention, or reporting an injury or  
35 death.

36 (d) Except to the extent expressly authorized by a patient,  
37 enrollee, or subscriber, or as provided by subdivisions (b) and (c),  
38 a provider of health care, health care service plan, contractor, or  
39 corporation and its subsidiaries and affiliates shall not intentionally  
40 share, sell, use for marketing, or otherwise use medical information

1 for a purpose not necessary to provide health care services to the  
2 patient.

3 (e) Except to the extent expressly authorized by a patient or  
4 enrollee or subscriber or as provided by subdivisions (b) and (c),  
5 a contractor or corporation and its subsidiaries and affiliates shall  
6 not further disclose medical information regarding a patient of the  
7 provider of health care or an enrollee or subscriber of a health care  
8 service plan or insurer or self-insured employer received under  
9 this section to a person or entity that is not engaged in providing  
10 direct health care services to the patient or his or her provider of  
11 health care or health care service plan or insurer or self-insured  
12 employer.

13 (f) For purposes of this section, a reference to a “medical  
14 examiner, forensic pathologist, or coroner” means a coroner or  
15 deputy coroner as described in subdivision (c) of Section 830.35  
16 of the Penal Code, or a licensed physician who currently performs  
17 official autopsies on behalf of a county coroner’s office or the a  
18 medical examiner’s office, whether as a government employee or  
19 under contract to that office.

20 SEC. 2. Section 4514 of the Welfare and Institutions Code is  
21 amended to read:

22 4514. All information and records obtained in the course of  
23 providing intake, assessment, and services under Division 4.1  
24 (commencing with Section 4400), Division 4.5 (commencing with  
25 Section 4500), Division 6 (commencing with Section 6000), or  
26 Division 7 (commencing with Section 7100) to persons with  
27 developmental disabilities shall be confidential. Information and  
28 records obtained in the course of providing similar services to  
29 either voluntary or involuntary recipients prior to 1969 shall also  
30 be confidential. Information and records shall be disclosed only  
31 in any of the following cases:

32 (a) In communications between qualified professional persons,  
33 whether employed by a regional center or state developmental  
34 center, or not, in the provision of intake, assessment, and services  
35 or appropriate referrals. The consent of the person with a  
36 developmental disability, or his or her guardian or conservator,  
37 shall be obtained before information or records may be disclosed  
38 by regional center or state developmental center personnel to a  
39 professional not employed by the regional center or state

1 developmental center, or a program not vendored by a regional  
2 center or state developmental center.

3 (b) When the person with a developmental disability, who has  
4 the capacity to give informed consent, designates individuals to  
5 whom information or records may be released, except that this  
6 chapter shall not be construed to compel a physician and surgeon,  
7 psychologist, social worker, marriage and family therapist,  
8 professional clinical counselor, nurse, attorney, or other  
9 professional to reveal information that has been given to him or  
10 her in confidence by a family member of the person unless a valid  
11 release has been executed by that family member.

12 (c) To the extent necessary for a claim, or for a claim or  
13 application to be made on behalf of a person with a developmental  
14 disability for aid, insurance, government benefit, or medical  
15 assistance to which he or she may be entitled.

16 (d) If the person with a developmental disability is a minor,  
17 dependent ward, or conservatee, and his or her parent, guardian,  
18 conservator, limited conservator with access to confidential records,  
19 or authorized representative, designates, in writing, persons to  
20 whom records or information may be disclosed, except that this  
21 chapter shall not be construed to compel a physician and surgeon,  
22 psychologist, social worker, marriage and family therapist,  
23 professional clinical counselor, nurse, attorney, or other  
24 professional to reveal information that has been given to him or  
25 her in confidence by a family member of the person unless a valid  
26 release has been executed by that family member.

27 (e) For research, if the Director of Developmental Services  
28 designates by regulation rules for the conduct of research and  
29 requires the research to be first reviewed by the appropriate  
30 institutional review board or boards. These rules shall include, but  
31 need not be limited to, the requirement that all researchers shall  
32 sign an oath of confidentiality as follows:

33 “ \_\_\_\_\_  
34 \_\_\_\_\_  
35 Date  
36

37 As a condition of doing research concerning persons with  
38 developmental disabilities who have received services from \_\_\_\_  
39 (fill in the facility, agency or person), I, \_\_\_\_, agree to obtain the  
40 prior informed consent of persons who have received services to

1 the maximum degree possible as determined by the appropriate  
2 institutional review board or boards for protection of human  
3 subjects reviewing my research, or the person's parent, guardian,  
4 or conservator, and I further agree not to divulge any information  
5 obtained in the course of the research to unauthorized persons, and  
6 not to publish or otherwise make public any information regarding  
7 persons who have received services so those persons who received  
8 services are identifiable.

9 I recognize that the unauthorized release of confidential  
10 information may make me subject to a civil action under provisions  
11 of the Welfare and Institutions Code.

12  
13 \_\_\_\_\_”  
14 Signed  
15

16 (f) To the courts, as necessary to the administration of justice.

17 (g) To governmental law enforcement agencies as needed for  
18 the protection of federal and state elective constitutional officers  
19 and their families.

20 (h) To the Senate Committee on Rules or the Assembly  
21 Committee on Rules for the purposes of legislative investigation  
22 authorized by the committee.

23 (i) To the courts and designated parties as part of a regional  
24 center report or assessment in compliance with a statutory or  
25 regulatory requirement, including, but not limited to, Section  
26 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the  
27 Penal Code, and Section 6502 of the Welfare and Institutions Code.

28 (j) To the attorney for the person with a developmental disability  
29 in any and all proceedings upon presentation of a release of  
30 information signed by the person, except that when the person  
31 lacks the capacity to give informed consent, the regional center or  
32 state developmental center director or designee, upon satisfying  
33 himself or herself of the identity of the attorney, and of the fact  
34 that the attorney represents the person, shall release all information  
35 and records relating to the person except that this article shall not  
36 be construed to compel a physician and surgeon, psychologist,  
37 social worker, marriage and family therapist, professional clinical  
38 counselor, nurse, attorney, or other professional to reveal  
39 information that has been given to him or her in confidence by a

1 family member of the person unless a valid release has been  
2 executed by that family member.

3 (k) Upon written consent by a person with a developmental  
4 disability previously or presently receiving services from a regional  
5 center or state developmental center, the director of the regional  
6 center or state developmental center, or his or her designee, may  
7 release any information, except information that has been given  
8 in confidence by members of the family of the person with  
9 developmental disabilities, requested by a probation officer charged  
10 with the evaluation of the person after his or her conviction of a  
11 crime if the regional center or state developmental center director  
12 or designee determines that the information is relevant to the  
13 evaluation. The consent shall only be operative until sentence is  
14 passed on the crime of which the person was convicted. The  
15 confidential information released pursuant to this subdivision shall  
16 be transmitted to the court separately from the probation report  
17 and shall not be placed in the probation report. The confidential  
18 information shall remain confidential except for purposes of  
19 sentencing. After sentencing, the confidential information shall be  
20 sealed.

21 (l) Between persons who are trained and qualified to serve on  
22 “multidisciplinary personnel” teams pursuant to subdivision (d)  
23 of Section 18951. The information and records sought to be  
24 disclosed shall be relevant to the prevention, identification,  
25 management, or treatment of an abused child and his or her parents  
26 pursuant to Chapter 11 (commencing with Section 18950) of Part  
27 6 of Division 9.

28 (m) When a person with a developmental disability dies from  
29 any cause, natural or otherwise, while hospitalized in a state  
30 developmental center, the State Department of Developmental  
31 Services, the physician and surgeon in charge of the client, or the  
32 professional in charge of the facility or his or her designee, shall  
33 release the patient’s medical record to the a medical examiner,  
34 forensic pathologist, or coroner, upon request. Except for the  
35 purposes included in paragraph (8) of subdivision (b) of Section  
36 56.10 of the Civil Code, a medical examiner, forensic pathologist,  
37 or coroner shall not disclose any information contained in the  
38 medical record obtained pursuant to this subdivision without a  
39 court order or authorization pursuant to paragraph (4) of  
40 subdivision (c) of Section 56.11 of the Civil Code.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Public Health, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in these facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Public Health or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Public Health or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Public Health or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board that licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be

1 sealed after a decision is reached in the matter of the suspected  
2 violation, and shall not subsequently be released except in  
3 accordance with this subdivision. Confidential information in the  
4 possession of the board shall not contain the name of the person  
5 with a developmental disability.

6 (p) (1) To governmental law enforcement agencies by the  
7 director of a regional center or state developmental center, or his  
8 or her designee, when (1) the person with a developmental  
9 disability has been reported lost or missing or (2) there is probable  
10 cause to believe that a person with a developmental disability has  
11 committed, or has been the victim of, murder, manslaughter,  
12 mayhem, aggravated mayhem, kidnapping, robbery, carjacking,  
13 assault with the intent to commit a felony, arson, extortion, rape,  
14 forcible sodomy, forcible oral copulation, assault or battery, or  
15 unlawful possession of a weapon, as provided in any provision  
16 listed in Section 16590 of the Penal Code.

17 (2) This subdivision shall be limited solely to information  
18 directly relating to the factual circumstances of the commission  
19 of the enumerated offenses and shall not include any information  
20 relating to the mental state of the patient or the circumstances of  
21 his or her treatment unless relevant to the crime involved.

22 (3) This subdivision shall not be construed as an exception to,  
23 or in any other way affecting, the provisions of Article 7  
24 (commencing with Section 1010) of Chapter 4 of Division 8 of  
25 the Evidence Code, or Chapter 11 (commencing with Section  
26 15600) and Chapter 13 (commencing with Section 15750) of Part  
27 3 of Division 9.

28 (q) To the Division of Juvenile Facilities and Department of  
29 Corrections and Rehabilitation or any component thereof, as  
30 necessary to the administration of justice.

31 (r) To an agency mandated to investigate a report of abuse filed  
32 pursuant to either Section 11164 of the Penal Code or Section  
33 15630 of the Welfare and Institutions Code for the purposes of  
34 either a mandated or voluntary report or when those agencies  
35 request information in the course of conducting their investigation.

36 (s) When a person with developmental disabilities, or the parent,  
37 guardian, or conservator of a person with developmental disabilities  
38 who lacks capacity to consent, fails to grant or deny a request by  
39 a regional center or state developmental center to release  
40 information or records relating to the person with developmental



1 disabilities within a reasonable period of time, the director of the  
2 regional or developmental center, or his or her designee, may  
3 release information or records on behalf of that person provided  
4 both of the following conditions are met:

5 (1) Release of the information or records is deemed necessary  
6 to protect the person's health, safety, or welfare.

7 (2) The person, or the person's parent, guardian, or conservator,  
8 has been advised annually in writing of the policy of the regional  
9 center or state developmental center for release of confidential  
10 client information or records when the person with developmental  
11 disabilities, or the person's parent, guardian, or conservator, fails  
12 to respond to a request for release of the information or records  
13 within a reasonable period of time. A statement of policy contained  
14 in the client's individual program plan shall be deemed to comply  
15 with the notice requirement of this paragraph.

16 (t) (1) When an employee is served with a notice of adverse  
17 action, as defined in Section 19570 of the Government Code, the  
18 following information and records may be released:

19 (A) All information and records that the appointing authority  
20 relied upon in issuing the notice of adverse action.

21 (B) All other information and records that are relevant to the  
22 adverse action, or that would constitute relevant evidence as  
23 defined in Section 210 of the Evidence Code.

24 (C) The information described in subparagraphs (A) and (B)  
25 may be released only if both of the following conditions are met:

26 (i) The appointing authority has provided written notice to the  
27 consumer and the consumer's legal representative or, if the  
28 consumer has no legal representative or if the legal representative  
29 is a state agency, to the clients' rights advocate, and the consumer,  
30 the consumer's legal representative, or the clients' rights advocate  
31 has not objected in writing to the appointing authority within five  
32 business days of receipt of the notice, or the appointing authority,  
33 upon review of the objection has determined that the circumstances  
34 on which the adverse action is based are egregious or threaten the  
35 health, safety, or life of the consumer or other consumers and  
36 without the information the adverse action could not be taken.

37 (ii) The appointing authority, the person against whom the  
38 adverse action has been taken, and the person's representative, if  
39 any, have entered into a stipulation that does all of the following:

1 (I) Prohibits the parties from disclosing or using the information  
2 or records for any purpose other than the proceedings for which  
3 the information or records were requested or provided.

4 (II) Requires the employee and the employee's legal  
5 representative to return to the appointing authority all records  
6 provided to them under this subdivision, including, but not limited  
7 to, all records and documents or copies thereof that are no longer  
8 in the possession of the employee or the employee's legal  
9 representative because they were from any source containing  
10 confidential information protected by this section, and all copies  
11 of those records and documents, within 10 days of the date that  
12 the adverse action becomes final except for the actual records and  
13 documents submitted to the administrative tribunal as a component  
14 of an appeal from the adverse action.

15 (III) Requires the parties to submit the stipulation to the  
16 administrative tribunal with jurisdiction over the adverse action  
17 at the earliest possible opportunity.

18 (2) For the purposes of this subdivision, the State Personnel  
19 Board may, prior to any appeal from adverse action being filed  
20 with it, issue a protective order, upon application by the appointing  
21 authority, for the limited purpose of prohibiting the parties from  
22 disclosing or using information or records for any purpose other  
23 than the proceeding for which the information or records were  
24 requested or provided, and to require the employee or the  
25 employee's legal representative to return to the appointing authority  
26 all records provided to them under this subdivision, including, but  
27 not limited to, all records and documents from any source  
28 containing confidential information protected by this section, and  
29 all copies of those records and documents, within 10 days of the  
30 date that the adverse action becomes final, except for the actual  
31 records and documents that are no longer in the possession of the  
32 employee or the employee's legal representatives because they  
33 were submitted to the administrative tribunal as a component of  
34 an appeal from the adverse action.

35 (3) Individual identifiers, including, but not limited to, names,  
36 social security numbers, and hospital numbers, that are not  
37 necessary for the prosecution or defense of the adverse action,  
38 shall not be disclosed.

39 (4) All records, documents, or other materials containing  
40 confidential information protected by this section that have been

1 submitted or otherwise disclosed to the administrative agency or  
2 other person as a component of an appeal from an adverse action  
3 shall, upon proper motion by the appointing authority to the  
4 administrative tribunal, be placed under administrative seal and  
5 shall not, thereafter, be subject to disclosure to any person or entity  
6 except upon the issuance of an order of a court of competent  
7 jurisdiction.

8 (5) For purposes of this subdivision, an adverse action becomes  
9 final when the employee fails to answer within the time specified  
10 in Section 19575 of the Government Code, or, after filing an  
11 answer, withdraws the appeal, or, upon exhaustion of the  
12 administrative appeal or of the judicial review remedies as  
13 otherwise provided by law.

14 (u) To the person appointed as the developmental services  
15 decisionmaker for a minor, dependent, or ward pursuant to Section  
16 319, 361, or 726.

17 (v) To a protection and advocacy agency established pursuant  
18 to Section 4901, to the extent that the information is incorporated  
19 within any of the following:

20 (1) An unredacted facility evaluation report form or an  
21 unredacted complaint investigation report form of the State  
22 Department of Social Services. This information shall remain  
23 confidential and subject to the confidentiality requirements of  
24 subdivision (f) of Section 4903.

25 (2) An unredacted citation report, unredacted licensing report,  
26 unredacted survey report, unredacted plan of correction, or  
27 unredacted statement of deficiency of the State Department of  
28 Public Health, prepared by authorized licensing personnel or  
29 authorized representatives described in subdivision (n). This  
30 information shall remain confidential and subject to the  
31 confidentiality requirements of subdivision (f) of Section 4903.

32 (w) When a comprehensive assessment is conducted or updated  
33 pursuant to Section 4418.25, 4418.7, or 4648, a regional center is  
34 authorized to provide the assessment to the regional center clients'  
35 rights advocate, who provides service pursuant to Section 4433.

36 (x) *For purposes of this section, a reference to a "medical*  
37 *examiner, forensic pathologist, or coroner" means a coroner or*  
38 *deputy coroner, as described in subdivision (c) of Section 830.35*  
39 *of the Penal Code, or a licensed physician who currently performs*  
40 *official autopsies on behalf of a county coroner's office or a*

1 *medical examiner's office, whether as a government employee or*  
2 *under contract to that office.*

3 SEC. 3. Section 5328.8 of the Welfare and Institutions Code  
4 is amended to read:

5 5328.8. (a) The State Department of State Hospitals, the  
6 physician in charge of the patient, or the professional person in  
7 charge of the facility or his or her designee, shall release the  
8 patient's medical record to ~~the~~ a medical examiner, forensic  
9 pathologist, or coroner, upon request, when a patient dies from  
10 any cause, natural or otherwise, while hospitalized in a state mental  
11 hospital. Except for the purposes included in paragraph (8) of  
12 subdivision (b) of Section 56.10 of the Civil Code, a medical  
13 examiner, forensic pathologist, or coroner shall not disclose any  
14 information contained in the medical record obtained pursuant to  
15 this subdivision without a court order or authorization pursuant to  
16 paragraph (4) of subdivision (c) of Section 56.11 of the Civil Code.

17 (b) A health facility, as defined in Section 1250 of the Health  
18 and Safety Code, a health or behavioral health facility or clinic,  
19 and the physician in charge of the patient shall release the patient's  
20 medical record to ~~the~~ a medical examiner, forensic pathologist, or  
21 coroner, upon request, when a patient dies from any cause, natural  
22 or otherwise. Except for the purposes included in paragraph (8) of  
23 subdivision (b) of Section 56.10 of the Civil Code, a medical  
24 examiner, forensic pathologist, or coroner shall not disclose any  
25 information contained in the medical record obtained pursuant to  
26 this subdivision without a court order or authorization pursuant to  
27 paragraph (4) of subdivision (c) of Section 56.11 of the Civil Code.

28 (c) *For purposes of this section, a reference to a "medical*  
29 *examiner, forensic pathologist, or coroner" means a coroner or*  
30 *deputy coroner, as described in subdivision (c) of Section 830.35*  
31 *of the Penal Code, or a licensed physician who currently performs*  
32 *official autopsies on behalf of a county coroner's office or a*  
33 *medical examiner's office, whether as a government employee or*  
34 *under contract to that office.*

35 SEC. 4. The Legislature finds and declares that this act imposes  
36 a limitation on the public's right of access to the meetings of public  
37 bodies or the writings of public officials and agencies within the  
38 meaning of Section 3 of Article I of the California Constitution.  
39 Pursuant to that constitutional provision, the Legislature makes

1 the following findings to demonstrate the interest protected by this  
2 limitation and the need for protecting that interest:

3 The privacy rights of the decedent would be impaired if the  
4 records released to a medical examiner, forensic pathologist, or  
5 coroner regarding the decedent were released to the public.

6 ~~SEC. 5. If the Commission on State Mandates determines that~~  
7 ~~this act contains costs mandated by the state, reimbursement to~~  
8 ~~local agencies and school districts for those costs shall be made~~  
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
10 ~~4 of Title 2 of the Government Code.~~